THE LONDON ADVOCATE

THE NEWSLETTER OF THE LONDON CRIMINAL COURTS SOLICITORS' ASSOCIATION

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Welcome to the July 2019 edition of The London Advocate, the Association's quarterly round-up of news, guidance and other opinions for the capital's criminal defence community.

The last quarter has seen the Association's campaign on clients languishing in RUI limbo gain significant publicity during June, the submission of a response to the CPS's consultation on its proposed legal guidance for mental health conditions and disorders, and members of the committee attending a large number of external meetings covering issues from the MOJ's review of legal aid, pre-charge engagement, the Professional Court Users' Access Scheme and more. Further details of these external meetings, including how interested members might attend, will be published on the Association's revamped website which will be going live very shortly.

Finally, any round-up of events has to mention the successful summer party, which was held on Friday 5 July at the Rotunda. An impressive number of members, counsel and guests attended; eating, drinking and dancing the night away in a great demonstration of defence community camaraderie. Please see the end of this edition for a note of thanks to our generous sponsors.

This edition includes details of a number of proposals for engagement with the MOJ and, as our lead article, the first part of a long read by Greg Powell on the history of Legal Aid. Knowledge of how this vital system originated and has subsequently evolved ought to be a prerequisite for any effective government review. The Committee hopes that members will find the series of articles informative, and of use in their efforts to spread the word about the value of effective publicly-funded legal representation.

Elsewhere, we have insights into the how the NCA is targeting users of hawala money transfers, the need for reform of the age of criminal responsibility, abuse of process applications in the Magistrates' Court, and of course there is Bruce Reid.

If you would like to suggest content, contribute an article, discuss advertising or be added to the distribution list, please contact the editor, Ed Smyth at **esmyth@kingsleynapley.co.uk**

LCCSA NEWS

DEFENCE ENGAGEMENT WITH THE MOJ – FOCUS GROUPS AND WORK SHADOWING SCHEME

We have, as you know, been engaging with the MOJ as part of their legal aid review. They would like to start engaging with the wider profession by holding a series of focus groups over the summer targeting criminal defence lawyers across England and Wales. Separately, the MOJ is asking defence firms to allow Ministry officials to take part in a work shadowing scheme:

Focus Groups

It is hoped that the MOJ will hold these sessions before most people start going away for their summer breaks. The ministry has assured us that they intend to host specific sessions for solicitors and those working in solicitors firms in relation to the challenges we face, with separate sessions for members of the Bar and Solicitor Advocates.

It is important to engage, so that the MOJ can obtain an insight into the fees, and what doesn't work for us, as a defence community, and what does.

If you are willing to share your views, please express your interest via the following link:

https://www.surveymonkey.co.uk/r/N853TJ3

Alternatively, send your expression of interest via email to MOJ researcher, Irina Pehkonen: **Irina.pehkonen1@justice.gov.uk** . Please also contact Irina directly if you have any additional queries about these focus groups.

This is an important opportunity to engage directly with the MOJ and make your views heard.

Work shadowing

It is hoped that MOJ officials will shadow a range of practitioners, at various stages of criminal cases from the police station onwards. This will allow officials to –

- See first-hand the work that practitioners undertake.
- How this work fits within the CJS as a whole
- Understanding how the work practitioners do feeds into the MOJ's overall review of Legal aid.

- Develop a better understanding of the work of practitioners and the issues they face supporting the review team to formulating ideas.
- Develop understanding of the type of firm and the routine of practitioners.
- Improve understanding of the different type of activities at different stages of the criminal case process.
- Have open dialogue with a range of practitioner (barristers, solicitors and legal executives) at both junior and senior level and observe their work to see how it differs.
- Spend time at a police station, magistrates court and Crown Court to observe the work undertaken here.

What do you need to do?

- Allow officials to capture the full range of criminal legal aid work undertaken by practitioners.
- Allow officials to gain insight into the work of duty solicitors at police stations and at court.
- Allow officials to observe a Crown Court hearing
- Allow officials to get a better understanding of criminal legal aid matters.
- Ensure at the end of the day a discussion takes place to review and reflect on the work seen.

What can you expect from MoJ officials?

MoJ officials are exceptionally grateful for the opportunity to take part in this shadowing programme. Given that there is only a limited amount of time, the ministry wants this to be used as effectively as possible and you can therefore expect MOJ officials to –

- To adhere to any confidentially agreements when observing cases and listening to discussions.
- To be open minded to the work practitioners do.
- To ask questions at the end of the day as th are tyhere to learn and increase our understanding.
- Make notes during the day.
- Agree in advance matters of logistics around time and dates of shadowing
- Alert practitioners to any disability issues so any adjustments can be made in advance.

Anyone interested in participating or wanting further information should email the Association at: admin@lccsa.org.uk

COURT OF APPEAL CRIMINAL DIVISION USERS MEETING REPORT

Steve Bird attended this meeting on 11 June behalf of the Committee. An update on the system of direct lodgement of appeals (rather than lodging with the Crown Court as was the procedure up to the autumn of 2018) suggested that the system is working well. Most notable for defence practitioners is the installation about a year ago of video link booths for pre- and post-hearing conference facilities opposite Courts 5 and 6 in the RCJ. Appellants' representatives are automatically given a 15m slot before hearing is granted – check the list for publication of your time slot, try not to miss your slot. For post-hearing cons representatives are advised to address the court at the end of the hearing and ask them to ensure prison officers do not take the appellant(s) back to the wing. Alternatively, try to ensure your client asks the prison officers to facilitate a con.

The facilities are also available for conferences on Monday and Wednesday afternoons even when a case is not listed (for example for post-conviction advice).

Anyone who has used the booths will know they are snug (two people can fit at a push), but it is possible to book two booths at the same time and ask the list office to arrange a bridge so at least two representatives can participate in comfort.

There is even the facility for counsel to address the Court by video link. The court will only allow this exceptionally and for short hearings (it will come as no surprise to learn that the quality and reliability of the equipment is questionable).

TRANSFORM JUSTICE SURVEY ON POLICE CUSTODY

Transform Justice (www.transformjustice.org.uk) is a national charity working for a fair, humane, open and effective justice system. The charity currently engaged in a project looking at the use of detention for adults in police custody and would be grateful if practitioners could spend a few minutes completing their online survey: **https://www.surveymonkey.co.uk/r/policecustody**

EUROPEAN CONFERENCE, BARCELONA, FRIDAY 4TH – SUNDAY 6TH OCTOBER 2019

Tickets for the Association's annual conference are proving popular, but there are still places remaining for what promises to be a great event. Follow this link to access the form:

https://www.lccsa.org.uk/wp-content/uploads/2019/03/BarcelonaBookingForm19-1.pdf

The cost includes two night's bed and breakfast at the Hotel Atenea Mar, a three-course dinner on Friday evening at Cangrejo Loco (kindly sponsored by Forensic Equity), a drinks party on Saturday evening and, of

course, the conference itself (kindly been sponsored by Garden Court Chambers).

The prices per person are £175 members/£225 non-members for a double room, £250/£300 for a single. Flights are not included. An optional walking tour of Barcelona is available for £30pp.

The conference is kindly sponsored by Garden Court Chambers and Forensic Equity.

COMMITTEE MEETINGS

The LCCSA committee meets monthly (second Monday of the month at 6:30pm) and all members are welcome. Meetings take place at Kingsley Napley, 14 St John's Lane, EC1M 4AJ.

ARTICLES

A BRIEF HISTORY OF LEGAL AID - A Practitioner's Perspective

In this first of a three-part essay, Greg Powell describes the evolution of Legal Aid from the 1970s to the early 2000s, a period which saw seismic changes in how legal services were funded, driven in part by the formation of the Legal Aid Board and the Crown Prosecution Service

1. The Expansion of Legal Aid

In the 1970s and 80s there was a large expansion of Legal Aid which was at that time essentially an adjunct to the other work of solicitors firms, there being some 7000 suppliers, Legal Aid work sitting alongside normal commercial work like conveyancing, probate and contract.

Administered by the Law Society the hourly rates were not as high as those prevailing in the private client and commercial world but nevertheless were related to the cost of time.

The cost of time was calculated by assigning a target for chargeable hours for each fee earner, usually 1200 hours per annum, a notional salary for solicitors and partners and dividing overheads by the numbers of fee earners to find out applicable hourly rates.

Provision was made for lower hourly rates for travel and waiting, a problem that has always been apparent in legal aid work which is often not office based but court based, and in the case of crime, prison and police station based, with the consequence that large parts of chargeable hours were consumed in lower paid hourly rates. Fixed fee schemes containing 'rolled up' time spent travelling and waiting 'hide' the true costs of cases within their simplicity.

However, in terms of cost benefit it is also to be noted that the organisation of courts and the interaction of advocates and the tribunal and particularly the flow of work provided by ushers in Magistrates Courts is highly efficient; face to face interactions provide courts with good quality information upon which to base decisions.

2. A Changing Supplier Base

As Legal Aid expanded the Law Society administration was unable to cope. Delay in payment became a well-known public fact and eventually the decision was made to move the administration of Legal Aid away from the Law Society into the hands of an independent Legal Aid Board. This was at inception essentially a cashier organisation but it also had within it a desire to promote and implement policy.

What had also happened is that a number of more specialist Legal Aid suppliers had come into being whose main purpose was to provide Legal Aid services in the community, usually both civil and crime covering the full range of civil, family law, welfare benefits, housing, mental health and immigration. In essence a numerous and independent "legally aided" sector was a by-product of the expansion of funding and scope.

It had been, and remains, a major component of this system that the supplier base provides its own capital in order to set up organisations, provide premises and employ people. In this sense it is a free market where entrepreneurs have invested their own capital identifying gaps in the market and establishing businesses.

There were parallel changes in the private solicitor marketplace as conveyancing lost its fixed fee structures and in the more successful private client firms partners often became dissatisfied with low hourly rates of return in legal aid work and began shedding that work, a process accelerated from the 1990s as Legal Aid rates became frozen and eroded by inflation. Lord MacKay decided to abolish his Legal Aid Advisory Committee. The current panel constituted to assist in the review of criminal Legal Aid is a distant echo of that forerunner.

3. The Rise of Contracting

The Legal Aid Board brought forward the idea that suppliers would be contracted to supply Legal Aid services coupled to the idea of a quality mark. This had some basis in academic research (see the book, Standing Accused by McConville and Others which lamented poor standards in criminal work).

Other major structural developments were the establishing of the Crown Prosecution Service following major public scandals involving forced confessions by police officers and also the technological development of tape recording which allowed a new mode for conducting interviews. The 1984 Police and Criminal Evidence Act also introduced the idea of the delivery of rights by independent Custody Officers whilst extending police powers. One particularly significant development was the decision to allow the police 24 hours in which to detain a person before charge. This was fiercely debated with 12 hours as a viable alternative but this was rejected and 24 hours underpins the subsequent development of a lackadaisical approach to the investigation whilst the person is in custody. Providing access to legal advice in the Police Station was a major costs driver.

Initially contracting was to be voluntary and was expressly said not to be a policy which would become compulsory. Of course it did and very unfortunately contracting become a major dividing factor, there being separate crime and civil contracts. This rupture of services had profound consequences on the market causing firms to choose between spheres and although many continue to operate both there was also a large bureaucratic burden. That burden was another factor in private client firms continuing to abandon Legal Aid services.

4. A Rich Ecology

What the entrepreneurial activity had created, in the context of the expansion of Legal Aid to meet need, was a rich fabric of firms and services. We have sometimes likened this to the ecology of a rainforest, diverse, valuable and especially establishing in local communities a variety of client choice and a feeling amongst clients, usually poorer and working class, that they had access to justice through "their" solicitor.

Sadly, as we will see in the next part of Greg's history, the myth that Legal Aid spending was out of control led to the diverse ecology being targeted for "reform".

IS THE CHINESE COMMUNITY BEING TARGETTED BY THE NCA?

<u>Katy Thorne QC</u> of Doughty Street Chambers highlights the use by the National Crime Agency of Account Freezing Orders, a tool created by the Criminal Finances Act 2017 and intended to combat organised and serious crime, against students and others who receive money from abroad by hawala transfer.

If Chinese students, feel that they are being targeted by the National Crime Agency (NCA), they are right. In a recent day of action the NCA applied to freeze nearly 100 bank accounts, mainly those of Chinese students, studying in the UK. Is it suggested by the NCA that those Chinese students are serious criminals or part of an organised crime group? Not exactly. These young people have become targets because their families use hawala to send them money from China.

Many people in the Chinese and other communities use hawala, an alternative remittance system, to transfer money perfectly innocently between family members. It is a system whereby a person in one country can transfer money to a person in another country without the use of bank accounts. Hawala banking, or fei-ch'ien, is an intrinsic part of the financial system in China, and in many countries across the world. China has fewer bank branches than the UK, and has tight currency movement controls which makes hawala an attractive option for many Chinese parents. It is also often cheaper and quicker than international bank transfers. It is not, however, legal in the UK as foreign currency exchange is heavily regulated.

One would not readily assume that such a system would be the focus of the NCA, whose remit is to investigate serious organised crime. The NCA's position is that the students' bank accounts are being used to launder money from organised crime groups (OCG): that it is the

informality of the hawala banking network which allows serious criminals to infiltrate and exploit them.

Account freezing orders (AFOs) and forfeiture orders [ss303Z1 to 303Z19 Proceeds of Crime Act 2002], are increasingly being used by the NCA and police as an alternative to charge. AFOs can hit those who have no direct involvement with serious organised crime and are seen as a soft option for the NCA as a way to disrupt the OCG. AFOs are granted on ex parte applications, with little scrutiny, in the Magistrates' court. They can be devastating for the account holder, but can be challenged, and perhaps due to the relatively new nature of the orders, the police and NCA are not always applying for them correctly. Lawyers should be vigilant to challenge the premise of these orders and to ensure that applications for exclusion of funds are made, to allow their clients to continue to study and pay their university fees. Ultimately applications to vary, and judicial review may follow, but the initial challenge to the application should be rigorous. If charges and criminal proceedings do ensue, it is vitally important for lawyers to examine carefully the nature of the particular hawala system and take careful instructions on the nature of the relationship with the cash provider.

CRIMINALISING CHILDREN – AT WHAT AGE AND WHAT COST?

Sandra Paul of Kingsley Napley argues for a long-overdue increase in the age of criminal responsibility from 10 to 14.

As the Scottish Parliament raises the age of criminal responsibility to 12, the law in England & Wales becomes even more isolated from the rest of the Western World. The Equality and Human Rights Commission, in relying on the United Nations Convention on the Rights of the Child (UNCRC), a convention to which the UK is a signatory, continues to criticise the UK in no uncertain terms regarding our failure to raise the age from 10 (the lowest in the region) to 14.

We almost seem to take pride in bucking the international norm and rejecting the expert evidence that tells us 10 years old is too young to fully understand the criminal consequences of behaviour, even if a 10 year old can superficially tell the difference between right and wrong. Even the higher threshold to be applied in Scotland is viewed by the UN as below the bare minimum.

The ability to objectively debate this topic is intrinsically bound up in our collective horror at isolated but grave examples of serious offences committed by children under the age of 14. We can all agree that what happened was criminal. We also know that these cases are exceptional. However, what we cannot now know with any certainty is the extent to which any offences that follow are caused by the brutalising effects of growing up in custody; whether we as a society have contributed to further impoverishing their experience and diminishing the opportunities for these children to reach their potential.

The Law Commissioner Professor David Omerod has already recommended a defence of "developmental immaturity" when considering the offence of murder. This is predicated on the body of overwhelming evidence to show that children are not "mini adults". Their brains and therefore their ability to predict consequences mature over time and do not reach full maturity until 25 years old.

We know this. For instance, let's take a classic example I heard recently - the approach to punishment for a 10 year old who kicks a ball and breaks a window while playing might properly be expected to be different than if I did the same thing. The difference in culpability arises from the fact that we plainly have different perceptions of consequences. I would know and understand the risk; most 10 year olds would not. It's so obvious, it hardly needs saying.

We see this reflected in so many areas of our society. Children are not allowed to vote or marry. Some rights and responsibilities are deferred until late childhood, e.g. driving or the ability to consent to sexual conduct. We "deny" or "protect children from" these rights and responsibilities as we opine that they are not sufficiently mature to understand the consequences of their conduct. Why then, when it comes to criminality, do we feel a 10 year old is able to withstand a combative police interview under caution? Or that a 12 year old is able to give their best account by giving evidence in an adversarial trial system designed for adults - the most significant but nevertheless limited concession being the court door is closed to the public (but not the media). This is the same 12 year old which the Sexual Offences Act 2003 (rightly) says is *incapable* of giving informed consent to sex. The contradiction is plain.

The reality is that our failure to adopt a more proportionate approach to dealing with children in our criminal justice system continues to damn future generations who will have to deal with the fallout. Criminalisation fundamentally and adversely affects children's biological, social, educational and psychological development at a unique time in their development. The damage done then can be irrecoverable. A welfare model

(like that being considered in France for children up to 13) which seeks to support and guide children through this period is demonstrably more successful in allowing them to become law abiding, functioning, independent members of our society who are able to contribute positively for the rest of their lifetime, which we hope will be at least the next 60 years. This is particularly so under circumstances where we know that offending behaviour is usually a short lived transitory phase.

The alternative is that we continue as we are, investing huge amounts of money to criminalise and then incarcerate children. The return on that investment is a lack of education leading to unemployment, increased mental health difficulties adding more pressure on our health services, and social isolation which increases the fragmentation of our communities. That results in a future society where large sections have no reason or means to contribute constructively.

We could instead and maybe because of our collective memory of what has happened in the past, take up our moral and legal responsibility to see children as children, even those children who come into contact with the criminal justice system. I represent a wide range of children. Some well-educated and supported, some less so, on a range of matters from allegations of sexual misconduct, theft, through to county lines and murder. Without exception, each of them has potential which is capable of being nurtured. None of them should be written off before they are (at least) 14, preferably never.

https://www.kingsleynapley.co.uk/insights/blogs/criminal-law-blog/criminalising-children-at-what-age-and-what-cost

ABUSE OF PROCESS IN THE MAGISTRATES' COURT: WHEN TO MAKE YOUR MOVE

Gareth Patterson QC and Rosalind Earis, barristers at 6KBW College Hill, examine the limits of the magistrates' court's jurisdiction to consider abuse of process applications, and what steps are available to a defendant whose argument falls outside those limits.

It is now well established that abuse of process arguments fall into two "limbs":

- That a fair trial is no longer possible, for example where evidence which could assist the defence has been destroyed, or the matter has received extensive prejudicial publicity;
- That it would undermine the integrity of the criminal justice system to allow the case to be tried, even if the trial itself would technically be fair.

The second limb refers to the courts' supervisory role, to ensure that the rule of law is upheld in spirit as well as to the letter. In *R (Bennett) v Horseferry Road Magistrates' Court* [1994] 1 AC 42 [1993] 3 W.L.R. 90, the House of Lords considered which court, if any, had the jurisdiction to hear an argument under the second limb. It held that the power as exercised by magistrates "*should be strictly confined to matters directly affecting the fairness of the trial of the particular accused with whom they are dealing, such as delay or unfair manipulation of court procedures*". Or in other words, magistrates had no jurisdiction to hear second limb arguments – only the Crown Court or High Court could do that.

However, a lifeline is thrown to defendants in summary proceedings by a line of wholly contrary case law concerning judicial review challenges to decisions to launch summary proceedings.

Arguments under the second limb often include where the charging decision was made in breach of some express or implied representation, or in contravention of published policy. It is in that context that a line of case law inconsistent with the seminal ruling in *Bennett* has developed in the last decade.

In a number of cases, the High Court has commented that judicial review ("JR") challenges to a decision to prosecute will only succeed in exceptional circumstances, it being fundamentally the role of the prosecutor to decide whether to charge and with what, and the role of the criminal courts to determine criminal matters on their merits. Those wishing to mount any challenge have an alternative remedy and should, says the High Court, make an abuse of process argument in the criminal court instead. This point was made explicitly by the High Court in *Moss & Son Ltd v CPS* [2012] EWHC 3658 (Admin) [2013] L.L.R. 40 at paragraph 23, even though in that case the proceedings in question were summary. This view has been echoed by the Court of Appeal in *R v A* [2012] EWCA Crim 434 [2012] 2 Cr. App. R. 8, a case concerning the appropriateness of a decision to prosecute the victim of domestic violence for falsely retracting a true rape allegation. The Court of Appeal stated at paragraph 81:

"*As to judicial review, there can, we suggest, be very few occasions indeed when an application for permission by or on behalf of a defendant should not be refused at the outset on the basis that an alternative remedy is available in the Crown Court. This is the*

appropriate tribunal for dealing with these questions on the rare occasions on which they may arise."

That is uncontroversial law as far as the Crown Court is concerned. But interestingly, the Court added, "*Precisely the same considerations apply to a case involving summary trial.*"

In the same vein, in R *(Barons Pub Company Ltd) v Staines Magistrates' Court and Runnymede Borough Council and Director of Public Prosecutions* [2013] EWHC 898 (Admin) [2013] L.L.R. 510 the Divisional Court considered the circumstances in which a Magistrates' Court could consider the appropriateness of a prosecutorial decision (in that case, there had been protracted communication between the defendant pub company and the prosecution before the charging decision was made). The Court observed that a challenge to the decision to prosecute must always be made in the criminal proceedings, unless there is some reason why it cannot be so made. The way in which it can be made in magistrates' court proceedings, the Court said, is by an abuse of process application (paragraph 36).

However, in neither R *v A* nor *Barons Pub* did the Court refer to the established principle in *Bennett* that the magistrates are restricted to considering "first limb" abuse of process arguments only. Nor did they refer to the case of *Nembhard v DPP* [2009] EWHC 194 (Admin), which reaffirmed that second limb challenges cannot be made before magistrates ("*regrettably*" in the view of Maurice Kay LJ at para 21). In *Nembhard*, it was held that prosecution proceedings could either be adjourned pending a judicial review of the decision to prosecute, or proceed to conclusion and an appeal by way of case stated made following any conviction. Both courses have disadvantages: the former has the disadvantage of causing delay; the latter course, while allowing the magistrates' court to make findings of fact that would assist the High Court, also causes delay, in addition to the stigma and punishment that flow from a conviction following a trial that arguably should never have taken place.

An appeal by case stated was the course followed in the summary proceedings in *Woolls v North Somerset Council* [2016] EWHC 1410 (Admin); [2016] 2 WLUK 69. In that case, representations had been made by the prosecutor that the claimant would not be prosecuted. The District Judge refused to hear an abuse of process argument and proceeded to hear the trial on the basis that an appeal by way of case stated could be brought in the event of conviction. The Divisional Court approved this course, although the line of inconsistent case law in *Barons Pub* and R *v A* was not cited to the court.

What are the practical consequences of this conflict? First, defence practitioners should be alert to the possibility of *Barons Pub* being deployed to persuade a magistrates' court that it can consider an abuse of process argument on the second limb – although the prosecution are likely to counter by relying on the House of Lords decision in *Bennett*, and may argue that the Court of Appeal's view in R *v A* was *obiter*: as things stand *Bennett* may be determinative of the question, unless it can be distinguished somehow on the facts. Secondly, unless and until this conflict is considered by a higher court, it is not at all clear what course should be taken by those facing summary proceedings who seek to challenge the charging decision, where the resulting trial would not technically be unfair. Should an attempt be made to distinguish *Bennett* and argue second limb abuse of process in the magistrates' court, thus honouring the warnings of the High Court in decisions such as *Barons Pub* and *Moss*that such challenges are rarely appropriate for the High Court? Or should a pre-trial JR application be made to the High Court, thus following the course suggested in *Nembhard,* and honouring *Bennett* itself? Care must be taken not to allow a JR application to become time-barred. The other course, of allowing the trial to proceed and then applying to the Court to state a case after any conviction, may be attractive to the High Court, but is very unattractive to (and hardly fair on) the defendant who might face the distress and initial expense of a prosecution that is later found to offend the integrity of the entire system. In a commercial context the reporting of a criminal trial, even in the magistrates' court, can cause reputational damage even if an accused business person is eventually vindicated in the High Court many months later, accompanied then by possibly little or no reporting.

We suggest that the fairer way through is for the High Court to hear a judicial review of the charging decision prior to any trial – with any delay being the price to pay for preventing an arguably unfair prosecution from proceeding. Given the Court's comments in *Nembhard*, that approach will be easier in cases where there are few issues of fact for the magistrates to determine and if successful it will avoid a conviction from ever being recorded against the accused. Practitioners should note that such a challenge may require an application for an interim quashing order of the summons or requisition, to prevent the magistrates' court from being seized of the matter. If the High Court refuses to entertain the challenge then it may still be possible to present the defence arguments in the summary proceedings and / or on an appeal by case stated.

https://blog.6kbw.com/posts/abuse-of-process-in-the-magistrates-court-when-to-make-your-move

BRUCE REID

CAMBERWELL - PILOT SCHEME SUCESS!

Concluding the tale that started in the last edition, Bruce Reid transports us to India, to where DJ Honeybun and the CPS team of Selina Stoat and Barry Badger together with the Defence secondment of Squirrel Nutkin and Felix Mansfield have been relocated in the MOJ's ceaseless search for economy…

Given that the live link hasn't worked for a month they have had little to do. Selina has revived her talent for needlework and has been exchanging skills with the village women. One is proudly finishing an intricately embroidered dupatta with the recurring motif of "Down with Patriarchy". They both reckon her husband can't read English.

Barry sits cross legged in mediation for most of the day and spends the rest of it wondering how he ever managed to keep up with file management, even though he has done nothing for the last 4 weeks he is still behind.

Squirrel can now swear fluently in three local dialects and works part time for an NGO.

Felix, ever the master of improvisation has perfected the Palm Toddy Martini.

This idyll is rudely interrupted by a phone call indicating that "Support" have finally figured out where the plug is and so the live link is working. Gary Goblin and some MOJ Mandarins will be on hand to view the first case, which, inevitably, will be Larry Lizard.

After a bit of scrambling the Court assembles. At the Camberwell end, Larry is in the dock, The MOJ Orcs and Goblins fill the well of the court and the live link screen occupies the DJ's Chair.

It reveals a hierarchy of hammocks, strung between palm trees. Khadi Honeybun in the ascendant with CPS and Defence on either side. Although Selina has mastered the sari, the men are dressed, somewhat ineptly by Indian standards, in what appears to be badly knotted bedsheets.

Marty Mole (waving a palm frond) - "First Case, Sir, Larry Lizard!"

Larry Lizard - "Squirrel!, Bro! Chillin' or what?! Love the toga!"

Squirrel Nutkin - "Mr Goblin, Greetings from India!" He continues:

"क्या आप अपने आप को बाजार में सबसे बड़ी मूली पर लगा सकते हैं, आप गधे की सात पीढ़ियों के बेटे हैं"

(kya aap apane aap ko baajaar mein sabase badee moolee par laga sakate hain, aap gadhe kee saat peedhiyon ke bete hain)

Gary Goblin -"What does that mean?"

SN - "It means -'The Search for Justice is World Wide, wherever the Law is to be found, there will Truth Flourish and Evil be Conquered."

Felix Mansfield (sotto voce) – "I thought you told me it was local for "May you impale yourself on the biggest mooli in the bazaar, you son of seven generations of donkeys"

SN - "Shhhhh!"

The proceedings commence by DJ Honeybun tinkling a handbell. As an offering he cracks a few peanuts and tosses them to the monkey below. For the next half hour, Gary Goblin is somewhat bemused by the Court's frequent reference to Sanskrit texts and the Legal Advisor mutters "How do you spell 'bodhisattva'?" After hearing from both Barry and Squirrel, Khadi Honeybun delivers judgment. Beneficent, smiling, mindful.

DJH - "Larry Lizard, Mr Badger has told me of your sins and blemishes and they are saddening indeed. But Mr Nutkin has told me that in past lives you were a good and virtuous man [Larry, quick on the uptake, nods furiously], so for that reason the Court can extend leniency, you will perform a day of prostrations at the Jamyang Temple*** in Kennington chanting a mantra of penance."

LL - "No tag?"

DJH - "How can I be sure you will do it? Of course there's a tag!"

GG - "This doesn't follow any Sentencing Guidelines that I know of!"

DJH - "We must learn from other Jurisdictions and Higher Laws, Mr Goblin, besides, there aren't any probation Officers left to enforce anything else."

GG - "And I am not sure that the Ministry approves of a Distri ct Judge feeding peanuts to monkeys!"

DJH- "A metaphor for our system of Justice, Mr Goblin! Astute of you to notice......"

The day's business continues in a similar vein with a break for tiffin at 3 o'clock local time.

A week later, despite the "resounding success and lessons learned" of the "experiment in the reduction of expenses in the Court Estate" it is back to Camberwell laden with memories and souvenirs. The price of coconuts in the bazaar tumbles and Selina's embroidery motif is taking the dupatta weaving co-operatives by storm.

Nigel Nutcracker (Squirrel's boyfriend) and Squirrel are sharing a homecoming bottle of Chateau Ocadeaux

Nigel - "I know it's great to have you back Squirrel, but our front room does look like the Temple Of Shiva....."

**** Which used to be Lambeth Magistrates Court. A giant golden Buddha statue now occupies the dais from which terrifying Stipendiary Magistrates never gave less than 3 months on principle. The Wheel Of Kharma turns. - No kidding.*

AND FINALLY….

…huge thanks go to our sponsors of the successful summer party, Farringdon Chambers and Forensic Equity. The Association is very grateful for their support, without which the event would not have been possible.